

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Sections 84001(a) through (z) (Renumbered from Sections 84001a. through z.)

Specific Purpose/Factual Basis:

These sections are being amended to change the numbering from having a period following the letter after the section number to having the letter in parentheses. This change is necessary for numerical consistency with other chapters in the Community Care Licensing regulations.

Sections 84001(e)(3), 84001(e)(4), and 84001(m)(2)

Specific Purpose:

The references in these sections to Article 8, Sections 84800 through 84808 are being changed because Article 8, Sections 84800 through 84808 are being renumbered to Subchapter 3, Sections 84300 through 84369. This is a nonsubstantive yet necessary change to allow for the temporal numbering of the Transitional Shelter Care Facility regulations (Subchapter 4) and future regulations.

Factual Basis:

These revisions are necessary in order to maintain the temporal order of the Group Home regulations as they are developed, as well as to allow for future numbering of additional proposed Group Home regulations. The Emergency Intervention in Group Homes regulations, Section 84800 et seq., left only Section 84900 et seq. for future subcategories. Changing Section 84800 et seq. to Section 84300 et seq. with the appropriate Articles added maintains consistency with the other Group Homes subchapters.

Section 84022(b)(4)

Specific Purpose:

The reference in this section to Article 8, Sections 84800 through 84808 is being changed because Article 8, Sections 84800 through 84808 are being renumbered to Subchapter 3, Sections 84300 through 84369. This is a nonsubstantive yet necessary change to allow for the temporal numbering of the Transitional Shelter Care Facility regulations (Subchapter 4) and future regulations.

Factual Basis:

This revision is necessary in order to maintain the temporal order of the Group Home regulations as they are developed, as well as to allow for future numbering of additional proposed Group Home regulations. The Emergency Intervention in Group Homes regulations, Section 84800 et seq., leave only Section 84900 et seq. for future subcategories. Changing Section 84800 et seq. to Section 84300 et seq. with the appropriate Articles added maintains consistency with the other Group Homes subchapters.

Sections 84061(h)(6)(I) and 84061(h)(7)(F)

Specific Purpose:

The references in these sections to Article 8, Sections 84800 through 84808 are being changed because Article 8, Sections 84800 through 84808 are being renumbered to Subchapter 3, Sections 84300 through 84369. This is a non-substantive yet necessary change to allow for the temporal numbering of the Transitional Shelter Care Facility regulations (Subchapter 4) and future regulations.

Factual Basis:

These revisions are necessary in order to maintain the temporal order of the Group Home regulations as they are developed, as well as to allow for future numbering of additional proposed Group Home regulations. The Emergency Intervention in Group Homes regulations, Section 84800 et seq., leave only Section 84900 et seq. for future subcategories. Changing Section 84800 et seq. to Section 84300 et seq. with the appropriate Articles added maintains consistency with the other Group Homes subchapters.

Section 84063(a)(4)

Specific Purpose:

The reference in this section to Article 8, Sections 84800 through 84808 are being changed because Article 8, Sections 84800 through 84808 are being renumbered to Subchapter 3, Sections 84300 through 84369. This is a nonsubstantive yet necessary change to allow for the temporal numbering of the Transitional Shelter Care Facility regulations (Subchapter 4) and future regulations.

Factual Basis:

This revision is necessary in order to maintain the temporal order of the Group Home regulations as they are developed, as well as to allow for future numbering of additional proposed Group Home regulations. The Emergency Intervention in Group Homes regulations, Section 84800 et seq., leave only Section 84900 et seq. for future subcategories. Changing Section 84800 et seq. to Section 84300 et seq. with the appropriate Articles added maintains consistency with the other Group Homes subchapters.

Sections 84065(i)(6), 84065(j)(7) and 84065(k)(8)

Specific Purpose:

The references in these sections to Article 8, Sections 84800 through 84808 are being changed because Article 8, Sections 84800 through 84808 are being renumbered to Subchapter 3, Sections 84300 through 84369. This is a nonsubstantive yet necessary change to allow for the temporal numbering of the Transitional Shelter Care Facility regulations (Subchapter 4) and future regulations.

Factual Basis:

These revisions are necessary in order to maintain the temporal order of the Group Home regulations as they are developed, as well as to allow for future numbering of additional proposed Group Home regulations. The Emergency Intervention in Group Homes regulations, Section 84800 et seq., leave only Section 84900 et seq. for future subcategories. Changing Section 84800 et seq. to Section 84300 et seq. with the appropriate Articles added maintains consistency with the other Group Homes subchapters.

Sections 84300 through 84369 (Renumbered from Sections 84800 through 84808)

Specific Purpose:

This entire subchapter is being renumbered from Section 84800 et seq. to Section 84300 et seq. with the appropriate Article numbers as a nonsubstantive, yet necessary change to allow for the temporal numbering of the Transitional Shelter Care Facility regulations and future regulations.

Factual Basis:

These revisions are necessary in order to maintain the temporal order of the Group Home regulations as they are developed, as well as to allow for future numbering of additional proposed Group Home regulations. The Emergency Intervention in Group Homes regulations, Section 84800 et seq., leave only Section 84900 et seq. for future subcategories. Changing Section 84800 et seq. to Section 84300 et seq. with the appropriate Articles added maintains consistency with the other Group Homes subchapters.

Section 84400

Specific Purpose:

The specific purpose of this section is to require that providers follow regulations governing Transitional Shelter Care Facilities, General Licensing Requirements and Group Home regulations, as well as applicable provisions of subchapter 2 for children under the age of six and subchapter 3 for emergency intervention unless the Transitional Shelter Care Facility regulations specify otherwise.

Factual Basis:

This section is necessary to make clear that the Transitional Shelter Care Facilities must meet all regulatory requirements noted and to raise the standard of protection for children by regulating Transitional Shelter Care Facilities by all applicable regulation schemes. The intent of these regulations is to ensure child protection and safety in temporary care as mandated by statute at Health and Safety Code Sections 1502(a)(11) and 1502.3(a) through (g).

Section 84401 introductory paragraph

Specific Purpose/Factual Basis:

The specific purpose of this introductory paragraph is to introduce definitions, in addition to those found in Sections 80001 and 84001, as they apply to Transitional Shelter Care Facilities.

Sections 84401(a) through (l)

Specific Purpose/Factual Basis:

The specific purpose of these sections is to allow for future definitions.

Section 84401(m)(1)

Specific Purpose:

The specific purpose of this section is to define the term “Maximum Occupancy.” The purpose of defining maximum occupancy is to establish an upper limit for the number of children who may be kept in a shelter without imminent risk of health and safety, in case of fire.

Factual Basis:

This section is necessary to clarify the definition of a term used in these regulations. Section 84401(m)(1) is included in the definitions to clarify that “maximum occupancy”, a fire authority construct, is different than “capacity”, a construct of CDSS, as stated in Section 80001(c)(1). Maximum occupancy is determined by the local fire authority and is the maximum number of people who may physically be in a shelter without being at imminent risk to their health and safety in the event of fire. Continued operation by a facility in excess of the maximum occupancy approved by the fire authority will not be allowed under any circumstances.

Sections 84401(n) through (s)

Specific Purpose/Factual Basis:

The specific purpose of these sections is to allow for future definitions.

Section 84401(t)(1)

Specific Purpose:

The specific purpose of this section is to define the terms “Transitional Care Children” or “Children in Transition.”

Factual Basis:

This section is necessary to clarify a term used throughout this section. Section 84401(t)(1) is included in the definitions to define and implement provisions of Health and Safety Code Section 1502.3(c) and clarify that these children include, but are not limited to, children who have been placed in the facility from another community care facility and are awaiting placement appropriate to their needs.

Sections 84401(t)(2) through 84401(t)(2)(A) and Handbook Sections 84401(t)(2)(A)1. and 2.

Specific Purpose:

The specific purpose of these sections is to define the term “Transitional Shelter Care Facility.”

Factual Basis:

These sections are necessary to clarify a term used throughout this section. Sections 84401(t)(2) through (t)(2)(A) are included in the definitions to define and implement provisions of Health and Safety Code Section 1502.3 and to clarify that a Transitional Shelter Care Facility is a group home that is owned by the county and is operated either by the county or a nonprofit agency contracted with the county and that the facility will serve children defined in Health and Safety Code Section 1502.3(c), by providing those children with services specific to their needs. The Handbook section has been added to show that Welfare and Institutions Code Section 11403 and Health and Safety Code Section 1502.3 provide the authority for these definitions.

Sections 84401(u) through (z)

Specific Purpose/Factual Basis:

The specific purpose of these sections is to allow for future definitions.

Section 84410 introductory paragraph

Specific Purpose/Factual Basis:

The specific purpose of this paragraph is to introduce what limitations on capacity and ambulatory status apply to Transitional Care Facilities, in addition to Sections 80010 [notwithstanding Section 80010(a)], 80028, and 80078.

Section 84410(a)

Specific Purpose:

The specific purpose of this section is to establish that operating over maximum occupancy is a violation of the license and to require that the facility to immediately reduce the census to no greater than the maximum occupancy.

Factual Basis:

This section is necessary to protect children since there is an inherent risk to their health and safety if a facility is operated over the maximum occupancy that is determined by the fire authority having jurisdiction.

Sections 84410(b) through (b)(1)(D)1.

Specific Purpose:

The specific purpose of these sections is to establish that if the facility operates over capacity, they are in violation of their license. To continue to operate, the facility must provide sufficient fire safety measures, staff, living space and accommodations for the needs of all children in care and submit an updated Plan of Correction to the Department.

Factual Basis:

These sections are necessary because Section 1502.3(g) of the Health and Safety Code requires that the licensee provide a program to be flexible to care for highly variable population size. While it is likely that shelters may occasionally exceed licensed capacity, this section clarifies that the facility is to maintain the same standards for care and supervision when they are over capacity as when they are within their licensed capacity (as mandated by Sections 80020, 80065, 80078, 80087, 84056, 84078 and 84087). Facilities are mandated by Section 84410 to submit a Plan of Correction when they operate over capacity so the Department can ensure that there are sufficient resources and staff allocated for the care of the children.

Section 84410(c)

Specific Purpose:

The specific purpose of this section is to establish the Department's authority to order the licensee to immediately relocate children in excess of capacity when the children are in imminent danger due to the facility being over capacity.

Factual Basis:

This section is necessary because Transitional Shelter Care Facilities are the only category that are anticipated to run over capacity due to the unique nature of their receiving children in crisis. This section ensures the health and safety of all residents when these facilities operate over capacity.

Sections 84410(d) through (d)(4)

Specific Purpose:

The specific purpose of these sections is to mandate that the facility cooperate with the licensing agency in the relocation process established in Section 84410(c). The facility is mandated to prepare the child's medications, medical insurance, clothing, cash resources, valuables, and belongings. The facility must contact the authorized representative and other suitable facilities for placement if necessary as well as provide access to the child's files.

Factual Basis:

These sections are necessary to facilitate the smooth transition of the child in the event that the licensing agency orders the licensee to relocate the child due to the child being in imminent danger because of the facility's overcapacity. This will cause the least amount of disruption for the child.

Sections 84422(a) through (a)(5)

Specific Purpose:

The specific purpose of these sections is to establish a requirement that a Transitional Shelter Care Facility must develop a Plan of Operation that describes 1) a statement that one of the primary purposes of the facility is to provide a program of Transitional Care Services to children, 2) the services that will meet the specific needs of the children in care, 3) protocols for how the services will be provided within 90 days of admission to the facility, 4) protocols for the provision of individualized assessments, and 5) protocols to ensure the safety of children.

Factual Basis:

These sections are necessary because the Plan of Operation is part of the application process which enables the Department to evaluate the facility's ability to protect and care for children. It is the Department's experience that adequate Plans of Operation assist facilities in meeting the needs of children.

Sections 84422(b) through (b)(6)

Specific Purpose:

The specific purpose of these sections is to mandate that the Transitional Shelter Care Facility's Plan of Operation contains a Contingency Plan for meeting the needs of children when they exceed their licensed capacity. This includes staffing, fire safety measures, buildings and grounds, alternative placement procedures and resources, and describing factors that would preclude the provision of care to the clients when in excess of licensed capacity.

Factual Basis:

These sections are necessary so that the Department can evaluate the Contingency Plan prior to its implementation. A Transitional Shelter Care Facility needs to have these plans in place before the facility becomes overcapacity to ensure the health and safety of all children in care when the facility is operating in excess of licensed capacity.

Section 84422(c)

Specific Purpose:

The specific purpose of this section is to mandate that the licensee obtain written approval from the Department before making any change to the facility's Plan of Operation.

Factual Basis:

This section is necessary to maintain consistency with the group home regulations and to enable the Department to maintain effective oversight of the Plan of Operation protocols as group homes are mandated to operate in accordance with the terms of their Plan of Operation per Section 80022(h).

Sections 84461(a) through (a)(2)

Specific Purpose:

The specific purpose of these sections is to mandate that in addition to the reporting requirements of Sections 80061, 80062, 80075, 80092.1, 84065, 84261, 84265, and 84361, the licensee who operates a Transitional Shelter Care Facility shall report violations of a child's personal rights, assaults of a child by another child or another person at the facility, a child's detention in a juvenile institution, or a child's care in an acute care hospital. The Department must be notified by the end of the Department's next business day, and a written report shall follow within seven business days. The authorized representative of each child involved in the incident shall be notified by the end of the Department's next business day.

Factual Basis:

These sections are necessary to maintain accountability for the care and protection of children's personal rights. Health and Safety Code Section 1502.3(f) mandates that the only reason a facility can discharge a resident without permission from the county is when they are detained in a juvenile institution or cared for in an acute medical/psychiatric hospital setting. The reporting requirements in these sections enable the Department to oversee this mandate.

Section 84461(b)

Specific Purpose:

The specific purpose of this section is to require that the facility notify the Department whenever it accepts a child that would increase the census of the facility to exceed the capacity set by the Department.

Factual Basis:

This section is necessary as operating over the capacity set by the Department is a violation of the license. This section also ensures that the Department can give timely feedback and/or intervention should the facility not be employing an appropriate plan for the care and supervision of the children.

Sections 84461(c) through (c)(2)(A)

Specific Purpose:

The specific purpose of these sections is to mandate that the facility notify the Department and the fire authority having jurisdiction in the event the facility operates over maximum occupancy.

Factual Basis:

These sections are necessary as operating over maximum capacity constitutes a serious threat to health and safety. These sections also ensure that the Department and the fire authority having jurisdiction can give timely feedback and intervention should the facility not make alternate plans for the care and supervision of the children, as a facility cannot operate over maximum occupancy per Section 84410(a).

Section 84465(a)

Specific Purpose:

The specific purpose of this section is to establish a requirement that administrators, facility managers, social work staff and direct care staff must have annual specialized training in dealing with Transitional Care children specified in Health and Safety Code Section 1502.3(c).

Factual Basis:

This section is necessary to ensure that a multiple placement child is properly cared for by qualified personnel. The staff need ongoing training to help identify the reasons for and to prevent future unsuccessful placements. Since the children in Transitional Shelter Care Facilities have emotional problems and are neglected or abused, or both, staff at all levels should be receiving updated training of how to meet the needs of these children. To accomplish this goal, staff at all levels need continuing education in this area.

Section 84465(b)

Specific Purpose:

The specific purpose of this section is to establish a requirement that prior to working with children, administrators, facility managers, social work staff and direct care staff must have specialized training in dealing with Transitional Care children specified in Health and Safety Code Section 1502.3(c).

Factual Basis:

This section is necessary to ensure that a multiple placement child is properly cared for by qualified personnel. The staff need additional training to help identify the reasons for and to prevent future unsuccessful placements. Since the children in Transitional Shelter Care Facilities have emotional problems and are neglected or abused, or both, staff at all levels should know how to meet the needs of these children. To accomplish this goal, staff at all levels need additional training.

Section 84468.1(a)

Specific Purpose:

The specific purpose of this section is to require the provider to obtain information regarding reasons why the child was removed from prior living arrangements.

Factual Basis:

This section is necessary because in order to assess a child for successful subsequent placement, the Department believes that the provider must know why the child was moved from his/her prior living arrangement(s).

Section 84468.1(b)

Specific Purpose:

The specific purpose of this section is to mandate that a facility will assess at intake whether the child poses a threat to him/herself or to any children at the facility, or if any other children at the facility pose a threat to the child.

Factual Basis:

This section is necessary because the Department feels that in order to ensure protection for the child and for the other children at the facility, it is important to know if the child poses a threat to self or other children at the facility, or if any children at the facility pose a threat to the child. This assessment is required because of client mixing, the lack of information available at intake at times and the inability of the facilities and the Department to quickly remove children from the facility who represent a threat to others.

Section 84468.2

Specific Purpose:

The specific purpose of this section is to require the provider to obtain information to facilitate an appropriate placement for the child and to incorporate the information gathered pursuant to Section 84468.1(a) into the Needs and Services Plan. This section requires the provider to document an assessment within thirty (30) days of admission.

Factual Basis:

This section is necessary to minimize the risk of the child being placed in an inappropriate subsequent living arrangement.

Section 84468.4 introductory paragraph

Specific Purpose/Factual Basis:

The specific purpose of this introductory paragraph is to introduce the list of what discharge and removal procedures Transitional Shelter Care Facilities must follow in addition to the procedures required in Section 84068.4, and when applicable, Section 84268.4.

Sections 84468.4(a) through (a)(3)

Specific Purpose:

The specific purpose of these sections is to require participation and approval of the child's authorized representative for any discharge unless the child must be detained in a juvenile institution or requires physical or mental health services in an acute care hospital or community treatment facility.

Factual Basis:

These sections are necessary because Health and Safety Code Section 1502.3(f) limits the authority of the Department and the facility with a Transitional Shelter Care Program in removing a child from the facility or program without permission from the county.

Sections 84468.4(b) through (b)(4)

Specific Purpose:

The specific purpose of these sections is to establish that the provider complete a discharge report for children residing in the facility for 30 consecutive days or more. This report shall include 1) the child's prior living arrangements and the reasons why the child was removed from these living arrangements, 2) an assessment of whether the child may represent a threat to self or others, 3) a recommendation for the most appropriate subsequent placement or residence for the child, and 4) a recommendation for the on-going services that the child will need.

Factual Basis:

These sections are necessary to enable the most appropriate subsequent placement and services for the child based on his/her history and needs.

Section 84478 introductory paragraph

Specific Purpose/Factual Basis:

The specific purpose of this introductory paragraph is to introduce what responsibilities for providing care and supervision Transitional Shelter Care Facilities have in addition to the requirements of Sections 80078 and 84078, and when applicable, Section 84278.

Section 84478(a)

Specific Purpose:

The specific purpose of this section is to preclude the facility from admitting any child when this would present an imminent threat to the health and safety of any child.

Factual Basis:

This is necessary to protect all children in the facility. These facilities admit children with a wide range of ages and problems. This makes younger children more vulnerable than in other facilities that have more homogeneous age groups.

Sections 84478(b) through (b)(1)

Specific Purpose:

The specific purpose of these sections is to require that when a child poses a threat to self or others, the licensee employ methods of protections that may include separation, closer monitoring, or increased and/or specialized staff. Any additional staff used for this purpose will not be counted in the usual facility staffing and ratio requirements.

Factual Basis:

These sections are necessary to protect all children in the facility. These facilities admit children with a wide range of ages and problems. This makes younger children and children who cannot protect themselves more vulnerable than in other facilities that have more homogeneous age groups. This is also designed to prevent behaving children from losing their staff when these staff have to go deal with acting out children.

c) Identification of Documents Upon Which Department Is Relying

Assembly Bill 1334, Chapter 950, Statutes of 1994

Emergency/ Transitional Shelter Care Chronology

Booraem v. Orangewood, et al., Complaint and Petition. Orange County Superior Court No. 798871.

Booraem v. Orange Stipulation and Proposed Order to Continue the Status Conference.

Warren v. Saenz Petition. San Francisco Superior Court No. 317487.

Warren v. Saenz Amended Order and Statement of Decision.

d) Testimony and Response

[To be completed after Public Hearing.]

e) Local Mandate Statement

These regulations do not impose a mandate upon local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

f) Statement of Alternatives Considered

CDSS has determined that no alternative considered would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected persons than the proposed action.

g) Significant Adverse Economic Impact On Business

CDSS has determined that the proposed action will not have a significant adverse economic impact on businesses including the ability of California businesses to compete with businesses in other states.